

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

HAZEL M. ROBY, as Administratrix of)
the Estate of RONALD TYRONE)
ROBY, Deceased,)

Plaintiff,

V.

BENTON EXPRESS, INC., et al,

Defendants.

CIVIL ACTION NO.: 2:05CV494-T

DEFENDANT'S OBJECTIONS TO PLAINTIFF'S DEPOSITION DESIGNATIONS

COMES NOW the Defendant, Benton Express, Inc., and, pursuant to the Court's scheduling order, states the following objections to the Plaintiff's deposition designations:

I. INTRODUCTION

The following are Defendant's objections, pursuant to Rule 32 of the Federal Rules of Civil Procedure, to the admissibility of depositions the Plaintiff has designated as those she intends to offer at trial. Defendant specifically reserves all other objections that it may make to the admissibility of the deposition testimony.

II. OBJECTIONS

1. Depositions of Glenn Clark, Garlin McLellan, David Justice, Bill Jones, and

Barry Weems: All of these witnesses are either employees or former employees of Defendant. However, none of them testified as an officer, director, or managing agent of Defendant or as a representative under Rule 30(b)(6). Accordingly, their depositions may not be used at trial under Rule 32(a)(2). Furthermore, these witnesses are expected to appear “live” at trial, and thus the provisions of Rule 32(a)(3) would not apply.

2. Depositions of Michael Boozer and Lisa Warr: These were eyewitnesses to the accident and are not in any way affiliated with the parties. Both of them live in the Montgomery area and are within the Court's trial subpoena jurisdiction. Accordingly, their depositions may not be used under Rule 32, other than for impeachment, unless they become unable to attend the trial for one of the reasons allowed by Rule 32.

3. Deposition of Tony Stephens: Steve A. "Tony" Stephens is Defendant's accident reconstruction expert. He lives in Prattville, which is within the Court's trial subpoena jurisdiction. His deposition may not be used under Rule 32, other than for impeachment, unless he becomes unable to attend the trial for one of the reasons allowed by Rule 32.

4. Deposition of Bob Tynes: Bob Tynes is Defendant's trucking industry expert. He lives in Carrollton, Georgia, and is therefore beyond the Court's trial subpoena jurisdiction. However, assuming he has recovered from recent health issues by the time of trial, he is expected to appear "live" at trial. Accordingly, his deposition may not be used under Rule 32, other than for impeachment, unless he becomes unable to attend the trial for one of the reasons allowed by Rule 32.

5. Depositions of Don Hammonds, Stephanie Stephens, Angie Daniels, K.J. Stapler, and David Tripp: Defendant has no objections to these witness' depositions under Rule 32.

Respectfully submitted,

s/ Gregory A. Brockwell
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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following on this the 3rd day of March, 2006:

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